

4. LEGISLATIVE BUSINESS

(i) The Cochin Sales Tax Act (Amendment) Bill

Mr. C. R. Iyyunni (*Minister for Revenue*): Sir, I move that the Cochin Sales Tax Act (Amendment) Bill be taken up and finally passed.

Mr. M. O. Thomakutty (*Commerce and Industries*): Mr. President, I rise to oppose this Bill. I move that the Sales Tax (Amendment) Bill be referred to a Select Committee.

Mr. President: But that has been negatived.

Mr. M. O. Thomakutty (*Commerce and Industries*): This is not a very simple Bill. Some of the amendments proposed to be introduced are very far reaching and are even capable of killing industrial and commercial expansion in the State. Trade and industry will not only not flourish in the State but will migrate to other neighbouring states or provinces. It must be remembered that the Government of Travancore have not yet introduced the Sales Tax. The Madras Act does not also contain the amendments now proposed. As a result the merchant or the industrialist in the State is placed in a very disadvantageous position compared to his competitors in the neighbouring places. Hon'ble Members will please realise that Cochin had acquired a commercial importance owing to its peculiar geographical position and also because of the first class harbour. But as a result of the invidious distinctions now sought to be created by these amendments, the trade and commerce in Cochin will be very seriously affected and consequently Government will be losing a large revenue which they would have obtained by Income-tax. I shall explain my position with concrete examples.

Is the Sales-tax after all a production tax or sale of goods tax? There is certainly a distinction between the two. Government have taken away the distinction by the proposed amendment of Explanation II to Clause 1 of section 2 of the Sales-tax Act. By this amendment though a sale takes place outside Cochin State, tax has to be paid to Cochin State on that sale, if the goods were in Cochin at the time of contract for such sale is made. In effect this becomes a production tax. You cannot say that the sale is effected in Cochin. The sale should be deemed to have taken place only when the goods passes hands from the seller to the purchaser. It is said that Sales-tax can be avoided by the opening of depots outside the State. Are the Government of opinion that the entire quantity of goods produced in the Cochin State is required for consumption in the State itself? Government are entitled to levy sales tax only on sales effected in the State itself. For the sale of better sales and advertisement they will have to open depots outside the State and when goods are sent to such depots it is only a transfer of goods and not a sale. They make the actual sale out in Madras or other places. Then they have to pay sales tax there. Therefore if Cochin is to levy a sales tax on the goods produced in the State and sent to other places they will have to pay double sales tax. It is not to avoid payment of sales tax that goods are sent to foreign places, but it is because that the whole quantity is not required for consumption in the State itself that these are sent. Hence the imposition of a sales tax on these by us will prove to be a hardship imposed on the industrialist and factory owners. This will not be an inducement for starting new industries. Take the case of small industries also. To take one example. There are several manufacturers of furniture in the State. Many of them are sending ready made furniture to outside places like Coimbatore, Madras and Trichinopoly. Now by this amendment they have to pay sales tax here and also in those places where the actual sale is effected. It is placing an embargo on the Cochin manufacturers. They are placed at a disadvantage. They will not be able to compete with others in the field. Is this the way of encouraging Cochin Industries? Let the Hon'ble Members say.

Again, take the case of trade. There are merchants in Mattancheri and there are big European firms in British Cochin. Many of the merchants will have to take goods like coir, pepper, cocoanuts, lemon grass oil to the European firms. These merchants will have to pay sales tax in the State. They have to pay the tax also in British Cochin. There is no sales tax in Travancore. Hence Travancore merchants and merchants in British Cochin will be able always to quote one percent lower than the merchants in Mattancheri. Hence our merchants are placed in an awkward position. They cannot compete with the merchants in British Cochin or Travancore who have to pay only one tax. Sir, is this the way of promoting trade? In the case of Income-tax there is relief from double taxation; but the same concession is not allowed in the case of sales tax.

What I say is that the Government must place the merchants in the State in an equal position to compete with others. There is the Sales-tax Act in Madras, but there these provisions do not exist. They have copied the Madras Act; but they do not follow it in all vital

respects. This is clearly an injustice done by this Government to our merchants and industrialists. Why should our Government take up such a suicidal policy?

Again, Government do not realise that by such imposition they are losing a good revenue which they would have otherwise obtained by means of the income-tax. Many of the big firms of Travancore had offices in Cochin and a heavy volume of trade in cocoanut oil, pepper, lemon grass oil and other hill produces used to be transacted in Cochin. Mattancheri was the commercial emporium for these products. Now what has happened? These firms have shifted their offices to Alleppey and all the transactions take place there. They take the things direct to British Cochin without landing in Mattancheri. With what result? No income tax is being realised. So far a small income from sales tax they sacrifice a bigger income from income tax. Is this a sound economic policy?

The fundamental principles underlying the sales-tax is that the tax should be levied only on those goods consumed in the State itself. It is not fair to levy the tax on goods exported to outside places. In Bombay, I understand this is the practice.

By the amendment to section 4 of the Act Government propose to levy the sales tax from even the pettiest of dealers. Hitherto dealers whose turnover less than Rs. 10,000 were exempt from payment of sales tax. Now if the amendment is passed even the smallest dealer whose turnover may not exceed Rs. 500 or Rs. 1,000 per annum will be brought under the orbit of the Act. It needs no exhortation from me for the Hon'ble Members to realise that it is going to be a very hard thing so far as the small, petty merchants of the State are concerned. It is not worthy on the part of the Government to harass such petty dealers and thus exhort even the last pie from the poorest of people. They must realise that this is a time when people are finding it increasingly difficult to pull on.

My humble submission therefore is that there are several vital principles involved in this amending bill. This bill seeks to cut at the very root of industrial and commercial expansion. Such a bill can never be passed by the popular representatives of the people. I therefore move that the Bill may be referred to a Select Committee for making suitable modification.

In conclusion I am reminded of the observations made by the Hon'ble Member for Mattancheri in his general discussion on the budget that I have not discharged my responsibility in the matter of imposition of sale tax at different stages in commercial transactions. I invite the Hon'ble Members' attention to my remarks on the Sales-tax Bill when it was first moved in this House. I drew pointed attention to the fact that the tax should be only at one point, namely the retail end. I had also referred to the adverse effects to our trade and commerce resulting from the enactment of this measure. Travancore has not passed the sales-tax and I had stressed the point that the imposition of this tax will lead to the shifting of our commerce to centres in Travancore. I think the Hon'ble Member has not correctly understood the trend of my budget speech. In fact I had stated in a general way that our trade and commerce have been very badly hit by the enactment of these measures. I did not take a detailed examination of these Acts because I wanted to make it when the respective Bills comes up for discussion. I am sorry that the Hon'ble Member has made such a passing reference without understanding what I have actually said and done in these matters. May I hope that the Hon'ble Member and the party which he represents will support me in throwing out this Bill which is going to harass the public of Cochin in a very large measure so that the public may judge that we are working for the larger interests of the people. I am also surprised to find that the Hon'ble Deputy President who has always boasted himself as the accredited champion of the labouring and toiling millions has supported these measures on behalf of the poor and that those who are opposing these are opposing them only in their own selfish interests and not in the true interests of the poor.

Mr. P. K. Dewar (Nominated) : But the Sales-tax is not here.

Mr. M. O. Thomakutty (Commerce and Industry) : What I ask the Hon'ble Member is whether he is supporting this in the true interests of the poor or with the intention of finding funds for the Ministry whom he is supporting. Let the Hon'ble Member understand that the poor labouring classes have already realised that the sales tax has been introduced not to ameliorate them but only to squeeze the last from them. Let the Hon'ble Member also understand that the capitalist merchant is not also losing anything by way of the sales tax but it is only the poor consumer. It will be a thousand pities if he were to support this measure in his zeal for finding funds for the Ministry even after realising the true facts as they are and forgetting the vital interests of the poor millions. With these few words I appeal to the good sense of the house.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): Mr. President, my sense of duty compels me, Sir, that I should also oppose this Bill even at the last stage just to see whether even at this last stage the true implications of the Bill will be understood by the powers that be and amends made for their previous mistakes. If, Sir, an opposition to a measure is viewed from the view-point as to who is the speaker, as to who is the sponsor of the opposition who is the opposer, or who is the supporter, that is the lowest depth to which a government can fall.

While the sales-tax was introduced here last time, after the select committee report had presented its report and when that was under consideration, I still remember, Sir, the then Advocate-General getting up and replying to one or two observations made by members who know the commercial world and who are competent to speak on the implications, the adverse effect of the measure on commerce, in reply to such observations made from one section of the House, he said: I fully appreciate the fear entertained by the merchant class of Mattancheri that as a result of the introduction of the sale-tax here there is a likelihood of a volume of trade, especially the trade in coconuts, coconut oil and the by-products from coconut shifting on to the neighbouring State, only a few miles that side, having a port and having all the facilities that Cochin has for the purpose of export and import, thereby, reducing the volume of trade in Mattancheri, that agains leading on to the fall in the income-tax that the Cochin Government would otherwise be getting and also the fear that the shifting of the trade from here in those important commodities from Mattancheri to Alleppey or other places, the wealth of the country will also be proportionately going down. The Government further said, Sir, that this matter will be carefully watched from time to time and that the Government would spare no pains to see that the trade of the country does not suffer and the wealth of the country would not be allowed to go down and that the income-tax allowable from such prosperity would not be allowed to be lost to Cochin. I seriously ask, Sir, whether as a matter of fact between the 1st of Chingam this year and today, a good volume of trade has not shifted on to outside Cochin with all the consequence of that shifting of trade from here and whether this question has been examined as promised on the floor of this House by the Government spokesman last year. I know that it has not been examined. It requires no instrument, it requires only your naked eye to see that trade has shifted on from Cochin, from Mattancheri to Travancore area, with all that goes in its train. That question has not been examined. The promise of examination of that question was made to see what are the ways of circumventing that or preventing the ruining of trade. Now, instead of that, you are by one of the amendments here encouraging that shifting. That is, hitherto, in your original Bill, the clause stated in a particular way which did not allow you to tax a sale that takes place outside Cochin, though an article, the manufacture of that article, or the production of that article was in Cochin. Now as if by a stroke of ingenuity, it is attempted to circumvent such losses. And what is the result? Now at least the production process is going on here with the result that the labour that is necessary for such production is enjoyed by Cochin labour. Now, if by your ingenuity in trying to circumvent that, the merchant in his ingenuity will be circumventing your ingenuity and he will be shifting the production itself from Cochin. The shifting of production also will be accentuated and necessitated by your present amendment. So that amendment is brought with additional loss to Government. As I stated here yesterday, the only amendment that is necessary is the removal, from taxation of agricultural income. Because of the proposal to tax agricultural income with income-tax agricultural income cannot be subjected to sales tax and therefore it has to be put in the schedule of exemptions from sales tax. For that an amending Bill of this sort is not necessary. If that is the only object, that, Sir, is achievable in other ways as provided in the Act. And barring that, the other two clauses intended are mischievous ones having all these consequences. Therefore, I must congratulate the Hon'ble Member for Commerce, though he was not in his seat to fight at the proper time and get the Bill examined by a competent and proper committee, which has got a right to report that this amendment be dropped, although he was not there, at that time. I am glad Sir that he has made good that laxity on his part by being in his seat today to oppose it even though it be at the last stage. I request that the Government of the day be pleased to revise their opinion and drop this measure rather than fight against the opposition which says that this Bill should be dropped.

Yesterday, when I spoke in the strain in which I am now speaking, there was an Hon'ble friend of mine who after me got up in his seat and, after travelling miles of irrelevant matter, how he came here, what is his position here, after detailing all that, he said that the Hon'ble friend who preceded him, that is poor me, ought to have brought a repealing Bill. I do not want the advice and guidance of my esteemed friend in such matters. Yesterday, I was not on

a repeal Bill. I was opposing the unnecessary amendments which the Government of the day of which he is a supporter, has without proper consultation in quarters which they should consult had brought here. That, Sir, is the attitude that is taken up on remarks made by persons who have taken pains to study the subject. That is why I prefaced my remarks with the observation that the opposition should not be viewed in the manner in which it is done, whether he sings to your tunes or criticises your actions with the best of intentions. It has to be considered whether the subject matter of the opposition is worth considering and if that is worth considering, you must rise to your full stature and correct yourselves rather than find fault with the persons who criticise you with the best of intentions. I submit, Sir, that this Bill may be dropped at least now. Let wisdom dawn on the Government at least at this last stage.

Mr. President: The question is that the Cochin Sales Tax (Amendment) Bill be taken up and finally passed.

Mr. M. O. Thomakutty (*Commerce and Industry*): A poll, Sir.

Ayes—32

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| 1. Mrs. K. M. R. Menon | 17. Mr. M. I. Paul |
| 2. Mr. P. K. Dewar | 18. „ M. K. Raja |
| 3. „ P. V. Sebastian | 19. „ P. T. Jacob |
| 4. „ P. A. Mohammed Ashrof | 20. „ P. K. Paul |
| 5. „ T. K. L. Kunjuvareed | 21. „ P. Sankara Menon |
| 6. „ K. A. Raghavan | 22. „ P. Achutha Menon |
| 7. „ K. K. Kannan | 23. „ C. S. Panicker |
| 8. „ K. S. Panicker | 24. „ Choudhury C. S. Dhara Singh |
| 9. „ K. T. Achuthan | 25. „ Rao Bahadur T. K. Nayar |
| 10. „ K. I. Velayudhan | 26. „ P. Govinda Menon |
| 11. „ K. R. Ramakrishnan | 27. „ Rao Sahib K. Ayyappan |
| 12. „ M. K. Verghese | 28. „ C. R. Iyyunni |
| 13. „ P. Narayana Menon | 29. „ Rao Sahib A. Madhava Prabhu |
| 14. „ K. Natarajan Chettiar | 30. „ Paul P. Mampilly |
| 15. „ R. S. Thevanna Koundan | 31. „ K. S. Raghavan |
| 16. „ Paramel Ipe Ipe | 32. „ K. Govinda Menon. |

Noes—4

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| 1. Mr. P. Kumaran Ezhuthassan | 3. Mr. K. H. Sulaiman |
| 2. „ M. O. Thomakutty | 4. „ A. Eachara Menon. |

Mr. President: There are 32 for the motion and 4 against and so the motion is carried and the Cochin Sales-tax (Amendment) Bill be taken up and finally passed.

Motion put and carried

(ii) The Cochin Stamp Act (Amendment) Bill

Mr. Paul P. Mampilly (*Advocate-General*): Sir, I move that the Cochin Stamp Act (Amendment) Bill be taken up and finally passed.

Rao Bahadur T. K. Nayar (*Minister for Public Health*): I second it.

Mr. P. Kumaran Ezhuthassan (*Vadakkancheri*): Mr. President, I oppose this Bill also at this last stage. I have given my reasons why the Stamp Act should not be amended by stepping up the existing rate of stamp duty yesterday. I don't wish to reiterate those arguments. The argument of the Government that the stepping up of the stamp duties prescribed by the Stamp Act that exist today affects only the rich man is a fallacious argument and if they will spend a little thought over it, they can easily understand from the explanation I gave on that topic yesterday that it is not so.

The only reason that the Government can trot out for this extra taxations as also the increasing of Court fees and Vehicles tax is that they by their vagaries have deploined the coffers of the Government and want to replenish it for providing money for running the Government for the next year. For this purpose the Government of the day is hurrying on with all sorts of additional taxation justifiable or otherwise the Government money for providing for works which may be boasted as ameliorative ones for the benefit of the masses. Paper arrangements

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